

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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In re:
LODGEBUILDER, INC.,

Debtor,

2:10-CV-01971-PMP-PAL

In re:
WILLIAM AUBREY,

Debtor.

OPINION

In re:
BRENDA TODD,

Debtor.

LODGEBUILDER INC., Debtor,
WILLIAM AUBREY, BRENDA TODD,
Joint Debtors,

Appellants,

v.

BRENDA MOODY WHINERY, Creditor
Trustee for Fort Defiance Housing
Corporation, Inc.

Appellee.

Pursuant to Rule 8005 of the Federal Rules of Bankruptcy Procedure, Appellants William Aubrey and Brenda Todd appeal the Order on Summary Judgment entered in the United States Bankruptcy Court for the District of Nevada on October 22, 2010. Appellants move for a stay of the Bankruptcy Court's Order on Summary Judgment pending Appellants appeal in the United States District Court for the District of Arizona of Judgment entered in that District.

The Summary Judgment Orders (Docket #44 in *Whinery v. Todd*, Adversary Proceeding No. 09-01170-LBR) and (Docket #46 in *Whinery v. Aubrey*, Adversary

1 Proceeding No. 09-01169-LBR), were entered based on the collateral estoppel effect of a
2 judgment entered by the United States Bankruptcy Court for the District of Arizona, which
3 ruled that Appellants engaged in intentional actions to misappropriate funds from a non-
4 profit Indian housing corporation, knowing that their actions would cause substantial harm
5 and severe damage to the Fort Defiance Housing Corporation.

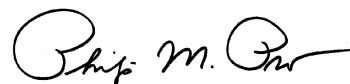
6 Appellants appeal is fully briefed and this Court has jurisdiction pursuant to 28
7 U.S.C. §158(a)(1).

8 As noted in Appellee's Brief (Doc. #7), Appellants' Joint Brief (Document #6) fails
9 to address the merits of the Summary Judgment Orders entered below, and instead asks this
10 Court to stay enforcement of the Orders pending resolution of an appeal in the District of
11 Arizona. The Court finds Appellants have failed to demonstrate why the Summary
12 Judgment Orders entered by the Bankruptcy Court in the District of Nevada are erroneous
13 or should be disturbed. The Court further finds Appellants have failed to show good cause
14 to warrant a stay of enforcement of the Summary Judgment Orders pending resolution of
15 the appeal in the District of Arizona.

16 **IT IS THEREFORE ORDERED that** the Summary Judgment Orders entered in
17 the United States Bankruptcy Court for the District of Nevada (Docket #44 in *Whinery v.*
18 *Todd*, Adversary Proceeding No. 09-01170-LBR) and (Docket #46 in *Whinery v. Aubrey*,
19 Adversary Proceeding No. 09-01169-LBR) are **AFFIRMED**.

20 **IT IS FURTHER ORDERED that** Appellants' Motion for a Stay of the
21 Bankruptcy Court's Summary Judgment Orders Pending Appeal in the District of Arizona
22 (Document #6) is **DENIED**.

23 DATED: March 14, 2011.

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25 PHILIP M. PRO
26 United States District Judge